

Carol Flaherty

To: Coltonm@aol.com
Cc: Bill Krepick; john.hoy@LMlcp.com; cbhunt@mpaa.org; David Simmons
Subject: RE: Apex Digital, Inc.600-A Player

Dear Colton:

I was pleased to note that you have included me on distribution of your intended press release addressing the Apex player's circumvention of regional coding and copy protection. I note that your announcement was sent to nerd-out.com, a web site that Macrovision considers to be among the most flagrant advocates of "region-free," "copy-free" DVD devices. I do recognize that Apex is taking certain steps to insure that future shipments of your player do not contain the hidden menu feature that is presently at issue with Circuit City. I would like to set the record straight, however, as regards several points in your press release.

Apex, Macrovision, the DVD/CCA, Circuit City, and ESS, among others, are fully aware that "hackers" are not the reason that copy protection and regional coding can be "bypassed" in the Apex product. Your manufacturer, Zhenjiang Jiangkui, has knowingly added a hidden menu to enhance sales via the removal of these features. This is especially true outside the US where you are already promoting the Apex brand. The hidden menu is enabled via software from ESS. Macrovision met with ESS a week ago. We are aware that ESS sent replacement firmware to every customer on March 9th, including Zhenjiang Jiangkui Group. ESS' chairman, Fred Chan, is presently in Asia discussing the illegality of the "loopholes" menu with manufacturers. Macrovision's message to ESS and any manufacturer that uses a hidden menu to promote circumvention of regional coding and/or copy protection is quite clear----remove it or face immediate legal action and the discontinuance of product sales. ESS has committed to Macrovision that it will not sell any ESS product to a customer that activates a loopholes menu. Macrovision will hold them to this commitment and will continue to test product --- bought randomly from retail suppliers --- to insure that the feature has been removed.

It is important for your president, Mr. Ji, to understand that Apex is not only liable under US civil law, but possibly under criminal law, as well, for knowingly selling a product that can be used as a "circumvention device." I hope that Mr. Ji has adequately conveyed to Zhenjiang Jiangkui the severity of the situation. Frankly, I have my doubts that Zhenjiang Jiangkui understands that they, and Apex, face serious legal and commercial ramifications if the new firmware is not deployed without further delay.

On March 13th, Macrovision sent a letter to Zhenjiang Jiangkui advising them that they were in violation of their Macrovision technology license via incorporation of the hidden menu. We have received no response. On April 13th, Macrovision will terminate Zhenjiang Jiangkui's license with our company and ask that IC manufacturers no longer ship them video encoders. In addition, we will insist that ESS stop all sales of the video decoder IC. In effect, this will stop DVD production.

I am advised that it could take as long as 30 days for Apex to receive new product from Zhenjiang Jiangkui---product that does not contain the hidden menu. This is unacceptable. The hidden menu can be removed via the simple change of an eprom. It can be done locally in the US. Macrovision expects Apex to recall all Circuit City inventory and swapout the software---now. There is no excuse for not doing so.

After we spoke, I sent you an e-mail referencing the web sites that provided instruction for executing the Apex hidden menu. The email was

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sent to your LA Sound address. The first transmission was returned to me as "undeliverable"; two others were later sent but not returned. In case you did not receive my e-mail, I would again like to bring your attention to the following web sites and ask that Apex take immediate action, through your attorney, to remove the content:

www.dvdutils.com
www.homestead.com
www.vddv.com
www.directlogic.com
www.deja.com Under this web site there is a subdirectory that references Apex: rec.video.dvd.players
www.800.com
www.nerd-out.com
http://perso.libertysurf.fr

I wish to emphasize that Macrosivion would like to work cooperatively with Apex to bring its players back into conformance with CSS requirements and with local laws that protect rights owners from abuse. There is a limit to our patience, however. I hope that you will share the content of this message with Mr. Ji and that he will, in turn, impress upon Zhenjiang Jiangkui that ESS' replacement firmware must be immediately and permanently installed in Apex product. If we find the the hidden menu is reintroduced at some point in the future, we will waste no time in taking legal action against all parties involved.

Regards,
Carol Flaherty
Vice President
Video Copy Protection

-----Original Message-----

From: Coltontm@aol.com [mailto:Coltontm@aol.com]
Sent: Tuesday, March 28, 2000 12:37 PM
To: jpenix@nerd-out.com
Subject: Apex Digital, Inc.600-A Player

Apex Digital, Inc. today announced that changes are being incorporated in its' popular DVD player to restore and enhance DVD copy protection systems. In March of this year the company learned that "hackers" had discovered a way to bypass certain security features of the Apex DVD player model 600-A potentially enabling unauthorized copying of DVD disks and the disabling of regional code restrictions. The company took immediate action with its OEM manufacturer to guard against the player from being used in this way. The manufacturer was instructed to change the copy protection system and regional code restrictions by eliminating the method previously used to gain access to the menus. The company has also strengthened the security features by changing the chip used in the player.

Apex Digital is also cooperating with the DVD Copy Control Association to circumvent these occurrences. "We have been assured that "hackers" will not be able to break our code", stated a high level Apex Digital executive. These hackers are being investigated to trace the original source of the problems.

Apex Digital markets and sells the model 600-A DVD player, the

first
player on the market with MP3 capabilities. The revised Model 600-A
will be
shipped in time to meet the demand of consumers wanting an MP3 capable
player
at a reasonable cost.

Apex Digital will be releasing new model DVD
players.

The new models will be the 660-700-and 800 series. Additional
features
have been added such as a three disk changer. Also, the Apex Digital
brand
will be offered on the first DVD player with MP3 for the car (MD-100).
Now
you'll be able to listen to 12 hours of music you've selected, in your
car.
The company is negotiating with Circuit City and several other mass
merchants. It will be available through mass merchants in coming weeks.

Apex Digital, Inc. is a marketing firm selling home electronics to
retailers primarily in the United States. The company is headquartered
in
Ontario, California.

Colton Manley, Director Public Relations
press inquiries to: coltontm@aol.com

Carol Flaherty

To: coltonmanley@lasound.com
Cc: Chris Wilcox
Subject: Web Sites

Dear Colton:

I do appreciate your fax and phone call of today. As I mentioned to you, Macrovision has uncovered the following web sites that contain instructions pertaining to circumvention of Macrovision's copy protection via Apex's hidden loopholes menu. The web sites are:

www.dvdutils.com
www.homestead.com
www.vddv.com
www.directlogic.com
www.deja.com

Another web site, www.800.com, mentions that the Apex unit is region-free. The Motion Picture Association will not tolerate this. The ability to circumvent regional coding is also highlighted on a French website: <http://perso.libertysurf.fr>

The Apex AD600A can be purchased through Circuit City's web site for \$179.99. Your players are also advertised for sale via www.vddv.com. VDDV is actually Visual Disc and Digital Video Corp—listed as an Apex OEM in one web site. The site also references two trading companies that sell Apex.

The following web site references "Apex Modification Pages" and the ESS ES4308 chip: <http://members.uss.net>

One of the most flagrant web sites in terms of regional coding and copy protection circumvention is www.nerd-out.com. They have an entire section on Apex.

WWW.deja.com has a subdirectory that with the following heading "Apex Secret Menu revealed." The subdirectory is rec.video.dvd.players.

Obviously, Colton, Macrovision will not tolerate the Apex hidden menu, nor the ease with which copy protection can be removed from your players, nor the large number of web sites that reference your product in terms of easily defeating regional coding and copy protection. I do appreciate that your US division is trying to do something about these serious problems, but time is of the essence. As I have explained to you, Macrovision feels that your DVD players are a "circumvention device" under the U.S.'s Digital Millennium Copyright Act. Accordingly, we have the option to file suit against your parent company and all US retailers to have the product removed from all US distribution channels. We can also terminate your Macrovision license, ask that Macrovision-licensed chip manufacturers cease shipments to you, request that your CSS license and encryption key be revoked, and ask the US government to disallow the importation of Apex players into the US. If Apex and its Chinese parent do not advise Macrovision of immediate steps that you will take to correct the situation, Macrovision will act. To avoid this, you must explain to Macrovision how you plan to deactivate the ESS chip and how you plan to recall shipments of Apex players that have the hidden menu, particularly those still in Circuit City's inventory.

Macrovision is willing to work cooperatively with Apex as long as you take immediate and decisive steps. Lastly, we also need to do something about the very damaging TV Digest critique of Apex players. We probably need to get Steve Booth to print mention of the fact that Apex has taken steps to correct your removal of copy protection.

Again, I do appreciate your calls over the past week and hope that Macrovision and Apex can quickly resolve the hidden menus issue.

Regards,

Carol Flaherty
Vice President
Video Copy Protection